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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002047

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TAGS: [PGOV](#) [PHUM](#) [TH](#)

SUBJECT: AND NOW THE REAL FUN BEGINS - THAILAND POLITICAL
UPDATE

REF: A. BANGKOK 2005 - THAKSIN SAYS: "I WON"

[1](#)B. BANGKOK 1546 - DELPHIC ORACLES AND BLACK MAGIC

[1](#)C. BANGKOK 1872 - PALACE REITERATES - LEAVE ME OUT

Classified By: Ambassador Ralph L. Boyce for reason 1.4 (b) (d)

[1](#)1. (C) SUMMARY. Thaksin's decision to step down as Prime Minister is a major step toward resolving the current political crisis, but a host of technical obstacles still remain. These issues revolve primarily around the ability to seat a new House of Representatives. With Thaksin's departure, one major hurdle has been overcome. The question now is whether the various camps can bridge their serious differences to find creative solutions to these remaining obstacles. END SUMMARY.

FILLING CONSTITUENCY-BASED SEATS

[1](#)2. (SBU) The first challenge to overcome in the wake of Thaksin's announcement is finding a way to seat a new House of Representatives. Following the April 2 elections, 39 constituency-based seats remained vacant, most of them in the south and most of them because of the 20 percent rule. The Election Commission (EC) had initially announced a second round of elections to be held on Sunday, April 9 (see Reftel A). Shortly before Thaksin made his address to the nation yesterday, the EC ruled that it would allow new candidates to register for the vacant seats and that it would postpone the second round of elections until Sunday, April 23. Registration for candidates will be open from April 8-9.

[1](#)3. (C) The Democrat party is still considering whether it should challenge the EC decision to allow new candidates to enter the race. There is some debate that the decision may violate the Election Law. Regardless, the Democrats (who are traditionally strong in 38 of the 39 open constituencies) made clear today that they will not register candidates for the second round. This means that Thai Rak Thai (TRT) will need to look for other parties to field candidates in those 38 districts in order to avoid the pitfall of running uncontested again (see Reftel A). (Note: the other two opposition parties that formed an alliance with the Democrats, Chart Thai and Mahachon, have yet to announce whether they will register candidates for the April 23 election. End note.) It is also conceivable that TRT will bow out of some constituencies and look for two smaller parties to register candidates. But to reiterate: getting additional candidates is critical, because it is widely assumed that any TRT candidate running unopposed will not succeed in breaking the 20 percent threshold.

FILLING THE PARTY-LIST SEATS

14. (C) The next snag is that one of the 100 party-list seats will likely remain open once the constituency seats are filled. In order to win a party-list seat, a political party must receive at least 5 percent of the total nationwide vote.

At this point, TRT is the only party to reach this mark; none of the other parties fielding party-list candidates are even close. The problem is that TRT only has 99 candidates registered on its party-list. It originally registered 100 candidates, but one member left TRT after registration closed in order to join the monastery (see Reftel B). Since TRT only has 99 candidates registered, one of the 100 seats will remain vacant.

15. (C) To date, the EC has announced no plans to reopen registration for party-list candidates. Sources within the EC inform us that in the event one of these seats remains vacant after all the constituency seats are filled, the EC will petition the Constitutional Court (CC) to allow the House of Representatives to be seated with only 499 members. This would challenge a precedent set by the CC in 2001 when it ruled that the Senate could not be seated until all 200 members were elected (see Reftel C). However, Justice Nopadol Hengjareon, a judge on the CC, told Polcouns today that the court might rule differently on this occasion. (Note: One possible line of reasoning: the 2001 ruling pertained to Senate seats which are constituency-based. Since party-list seats do not represent constituencies of voters, the CC might rule that the House could be seated without the full complement of party-list members. End note.)

PAD'S PETITION TO ANNUL THE ELECTION

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16. (U) On April 3, the People's Alliance for Democracy (PAD) filed a petition with the Central Administrative Court to have the April 2 elections nullified, claiming that the EC had violated voter privacy (see Reftel A). The complaint is based on an EC directive to reposition voting booths in a way that made it possible for poll officials and members of the public to see how voters marked their ballots. This petition is working its way through the Administrative Court. Also on April 3, the Asian Network for Free Elections (ANFREL) submitted a similar complaint to the United Nations High Commissioner for Human Rights. The ANFREL complaint alleged that the EC violated Article 21 of the UN Declaration of Human Rights which guarantees the right to vote in privacy. Thus far, UNHCHR has not issued a public response.

17. (C) COMMENT: In the wake of Thaksin's resignation, it remains unclear whether the opposition groups will reconcile to working together with TRT to overcome these technical obstacles to seating a parliament that will be of limited duration. The imperative of reaching some accommodation in advance of the King's coronation anniversary in June may induce sufficient compromise. This is more than a technical or academic issue: the new parliament will produce the new administration, and together they will be charged with coming up with new rules for the next round of elections - the only hope, really, to break the current cycle of paralysis and confrontation. End Comment.
BOYCE